

REMARKS

Claims 23-30 remain in this application. Claim 23 has been amended. Applicants submit that no new matter has been added with this amendment to Claim 23.

Before addressing the merits of the grounds of rejection, Applicants provide the following brief description of the invention. The claimed invention generally relates to a smoke generator for a model toy train that provides a puffing pattern of smoke. The smoke generator typically comprises: a smoke generating element to generate smoke; a fan driven by a fan motor; and a controller for receiving a signal corresponding to a load on the electric motor and sending/adjusting the output current to the fan motor in response to the received signal, such that the fan motor drives the fan and abruptly stops the fan after a predetermined time period. More specifically, the controller sends an output current to the fan motor, which responds by driving the fan at a velocity proportional to the received signal. After a predetermined time period, the controller reverses the output current to the fan motor to abruptly stop the fan, thereby generating a realistic puffing pattern of smoke instead of a continuous smoke stream.

The Examiner rejected Claims 23-30 under 35 U.S.C. § 102(b) or (e) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being unpatentable over Wells (US 6,280,278) alone, or further in view of Wolf et al. (US 6,457,681). The Examiner asserts that Wells teaches a controller that adjusts the airstream from a fan based on the load on an electric train motor (e.g., column 5, lines 40-43 and 56-67; column 6, lines 1-40; column 7, lines 4-15). The Examiner states that "these elements and those not specifically disclosed in Wells would have been obvious in view of the disclosures expressly made in the reference ... or in view of Wolf et al." These rejections are respectfully traversed.

In contrast to the prior art of record, Claim 23 recites a smoke generator comprising a controller programmed to: (a) send an output current to the fan motor in response to the received signal, such that the fan motor responds to the output current

by driving the fan at a velocity proportional to the received signal; and (b) after a predetermined time period, reverse the output current to the fan motor to abruptly stop the fan, and thereby generate a puffing pattern of smoke. Neither Wells nor Wolf et al. discloses a controller that is programmed to reverse the output current to the fan motor, and thereby abruptly stop the fan. For example, Wells focuses on monitoring increases in the current load drawn by the train motor, and responding to current load increases by varying the rate at which smoke fluid is pumped to a heating element and/or the fan speed. Column 6, lines 32-41; column 4, lines 57-60. The fan in Wells, however, "is typically *continuously running*, creat[ing] an air flow directly across the heating element...." Column 5, lines 10-15 (*italicizes added*). Because the smoke generation system in Wells does not start and stop the fan, the rate at which smoke fluid is pumped to the heating element should be adjusted to achieve a puffing pattern of smoke instead of a continuous stream of smoke. Accordingly, Applicants request that the § 102(b)/(e) rejection of Claim 23 be withdrawn.

A *prima facie* rejection for obviousness requires: (1) a disclosure or suggestion of every element of the claim in the cited reference or references; (2) a suggestion or motivation, in the references or known to one skilled in the art, to modify or combine the references; and (3) a reasonable expectation of success. The suggestion to combine and the reasonable expectation of success must be found in the prior art. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

With regard to the first requirement for the obviousness rejection, Wells, alone or in combination with Wolf et al., must identically teach or suggest every element of Claim 23, arranged as in Claim 6. See M.P.E.P. § 2143 (Oct. 2005). There is nothing in Wells or Wolf et al. that discloses or suggests a controller programmed to "reverse the output current to the fan motor to abruptly stop the fan, and thereby generate a puffing pattern of smoke," as recited in Claim 23. As such, Wells, alone or in combination with Wolf et al., does not support a *prima facie* case of obviousness with respect to Claim 23. Accordingly, Applicants request that the § 103(a) rejection of Claim 23 be withdrawn.

Claims 24-30, which depend from Claim 23, are deemed patentable for the reasons stated above with respect to Claim 23, and because of the additional limitations set forth therein. Accordingly, Applicants request that the rejections of Claims 23-30 be withdrawn.

In view of the foregoing, the Applicants respectfully submit that Claims 23-30 are in condition for allowance. Reconsideration and withdrawal of the rejections is respectfully requested, and a timely Notice of Allowability is solicited. If it would be helpful to placing this application in condition for allowance, the Applicants encourage the Examiner to contact the undersigned counsel and conduct a telephonic interview.

To the extent necessary, Applicants petition the Commissioner for a three-month extension of time, extending to February 28, 2006, the period for response to the Office Action dated August 29, 2005. A check in the amount of \$510.00 is enclosed for the three-month extension of time pursuant to 37 CFR §1.17(a)(3). The Commissioner is authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0639.

Respectfully submitted,



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